

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 14846 of 2004(P)

OS.50/1992 of PRINCIPAL SUB COURT,KOLLAM

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PETITIONER:

SHERIFA BEEVI, SHERI LAND, KARIKODU,
KOLLAM - 5.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENT:

SALMA BEEVI, VELIYIL VEEDU,
KANDANACHALIL, KILIKOLLOOR, KOLLAM.

BY ADV. SRI.B.KRISHNA MANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX(WPC 14846/04)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE SUIT O.S.NO.50/92 ON THE FILE OF THE SUB COURT, KOLLAM DATED 20.1.1992.

EXT.P2: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONER IN O.S.NO.50/92 ON THE FILE OF THE SUB COURT, KOLLAM DATED 27.10.1992.

EXT.P3: TRUE COPY OF I.A.NO.116/2000 FILED BY THE PETITIONER IN O.S.NO.50/92 BEFORE THE SUB COURT, KOLLAM DATED 12.1.2000.

EXT.P4: TRUE COPY OF I.A.NO.214/2000 FILED BY THE RESPONDENT IN O.S.NO.50/92 BEFORE THE SUB COURT, KOLLAM DATED 21.1.2000.

EXT.P5: TRUE COPY OF I.A.NO.870/2000.

EXT.P6: TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENT IN EXT.P5 PETITION DATED 22.9.2000.

EXT.P7: TRUE COPY OF THE ORDER ON I.A.NO.1937/03 IN O.S.NO.50/92 OF THE SUB COURT, KOLLAM DATED 8.3.2004.

EXT.P8: TRUE COPY OF THE ORDER ON I.A.NO.1938/03 IN O.S.NO.50/92 OF THE SUB COURT, KOLLAM DATED 8.3.2004.

EXT.P9: TRUE COPY OF THE ORDER ON I.A.NO.870/2000 IN O.S.NO.50/92 OF THE SUB COURT, KOLLAM DATED 8.3.2004.

PIUS C. KURIAKOSE,J.

W.P.(C) No.14846 of 2004

Dated: 6th August, 2007

JUDGMENT

I do not think that the learned Subordinate Judge was justified in dismissing I.A.No.870/2000 on the sole reason that I.A.Nos.1937/03 and 1938/03 are dismissed. In fact I.A.No.870/2000 was being posted along with I.A.Nos.214/2000 and 116/2000. The court was expected to pass orders in I.A.No.870/2000 while passing orders on I.A.Nos.214/2000 and 116/2000. Obviously it is due to an omission that orders were not passed on I.A.No.870/2000 which was also being posted along with I.A.Nos.214/2000 and 116/2000. The present order Ext.P9 which proceeds as if the order allowing I.A.Nos.214/2000 and 116/2000 seals the fate of I.A.No.870/2000 cannot be approved. I set aside Ext.P9 order and direct the learned Subordinate Judge to hear the parties again in I.A.No.870/2000 and pass an order considering the merits of the rival contentions raised in that I.A. Under these circumstances, the order of stay passed by this court against execution of the commission order pursuant to the orders in I.A.Nos.214/2000 and 116/2000 as confirmed by orders in I.A.Nos.1937/2003 and 1938/2003 will continue till such time as

fresh orders are passed in I.A.No.870 of 2000.

The Writ Petition is disposed of as above. No costs.

srd

PIUS C.KURIAKOSE, JUDGE